

**Steve Largent**  
President/CEO

March 3, 2010

The Honorable Julius Genachowski  
Chairman  
Federal Communications Commission  
445 12<sup>th</sup> Street S.W.  
Washington, D.C. 20554

Re: Written *Ex Parte* Presentation, GN Docket No. 09-51; WT Docket No. 09-66.

Dear Chairman Genachowski:

On behalf of CTIA –The Wireless Association<sup>®</sup>, I am writing to urge you and your colleagues, as you complete work on the National Broadband Plan (“NBP”), to address the impact that taxes and fees have on broadband deployment and adoption. While the Commission lacks authority to do all that is necessary to overhaul a tax system that is in many ways a legacy of the days of “Ma Bell”, we ask that the Commission use the NBP to recommend and help educate policymakers about the need to rethink the way that telecommunications services and information services are taxed so that the tax system works to encourage, rather than discourage, broadband adoption and investment.

Eliminating or substantially reducing regressive impositions on end-user bills is critical to expanding broadband adoption by all our citizens. Similarly, reducing the tax burden imposed on broadband providers, as well as updating the way taxes are imposed so as to better reflect the impact that taxation has in a capital-intensive industry characterized by short product life-cycles, is key to encouraging more robust investment by broadband providers. In turn, this will serve to maximize the impact of broadband as a job creator, and to enhance the use of broadband as a critical input into every business in America.

On the demand side of the equation, barriers to universal broadband adoption remain significant. The Federal Government should work to ensure that excessive tax structures of the past do not prevent or delay access to the mobile frontier and all of its profound benefits. For instance, a 2007 tax report by Kimball, Sherman and Ellis identified 21 states that have a double digit state and local tax/fee rate on wireless services. In 16 states, the state, local and federal tax imposition range between 15 and 22 percent of the average customer’s bill every month.

Taxation at these extraordinary levels cannot help but dampen adoption, especially at the margins, in a way that is counterproductive at a time that the wireless platform is increasingly used as an “on-ramp” to the Internet by less-affluent demographic groups that are unlikely to have a home computer and wireline broadband connection. The National Black Caucus of State Legislators<sup>1</sup> and the National Hispanic Caucus of State

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<sup>1</sup> National Black Caucus of State Legislators, Telecommunications, Science, and Technology Committee, Adopted at Annual Legislative Conference, December 2009



Legislators<sup>2</sup> have recognized this point, recently adopting resolutions in support of federal legislation to freeze states from enacting any new discriminatory wireless taxes, highlighting concerns about the cost of excessive taxation on these critical services.

With the intensely competitive nature of the broadband sector today, economics are at the forefront of all network deployment decisions. Decreasing the cost to deploy network assets by providing tax incentives or through reducing excessive tax burdens will help accelerate the needed infrastructure to provide advanced communications services to more areas, particularly rural and outlying areas. For instance, a wireless carriers' ability and incentive to deploy mobile broadband equipment is discouraged by the Internal Revenue Service's current position that wireless broadband equipment should be treated like wooden telephone poles for federal depreciation purposes – slowing the recovery of this investment for income tax purposes. This treatment significantly and unnecessarily increases the cost of deployment. I urge you to include reform of the current depreciation schedules among the areas in which the NBP recommends that congressional action is necessary in order to ensure that the vision of universal, affordable broadband is realized.

Similarly, 21 states<sup>3</sup> currently grant manufacturers an exemption from sales taxes for the equipment used in manufacturing their products in order to encourage the manufacturing sector and promote collateral economic benefits. However, these same state exemptions are not extended to the communications equipment – the foundation of the mobile broadband gateway – that is so critical to the small and medium businesses that have a significant impact on state and local economies. The NBP should speak to this disparity and encourage state policymakers to undertake the necessary and critical reforms.

Another troubling trend has been the increasing reliance of state and local governments on wireless services “fees” that are, in reality, nothing more than general revenue measures. For example, state and local 911 fees are supposed to be collected and dedicated to funding the emergency communications system consistent with state statutes. In addition, Congress made clear in the ENHANCE 911 Act of 2004 (Public Law 108-494) that states are ineligible for federal 911 grant money if the state has misallocated 911 fees for unintended purposes. These fees can range as high as \$3.00 per month at the state level and \$3.50 per month at the local level. With increased frequency, these funds are being raided by states for general revenue purposes. The July 2009 FCC Report to Congress on State Collection and Distribution of 911 and Enhanced 911 Fees and Charges identified 12 states that raided their dedicated E911 funds in 2008 to cover budget shortfalls.<sup>4</sup> Thus, while wireless billing statements inform customers that a fee is being assessed for E911 purposes pursuant to government mandate, in fact at the direction of state officials, the money often is not being used in this way. Actions by some state officials are rendering the explanation of the charges misleading at best and

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<sup>2</sup> National Hispanic Caucus of State Legislatures, Adopted at Annual Meeting, November 2009.

<sup>3</sup> The states are AR, CA, CO, GA, ID, IL, KS, KY, MA, MD, ME, NM, OK, RI, SC, TN, TX, VA, VT, WA & WI

<sup>4</sup> Federal Communications Commission, Chairman Julius Genachowski, Report to Congress on State Collection and Distribution of 911 and Enhanced 911 Fees and Charges, Submitted Pursuant to Public Law No. 110-283. Twelve states report that collected funds are or may be used, at least in part, to support programs other than 911 and E911 including ID, IL, ME, MT, NE, NJ, NY, OR, RI, TN, UT & WI.

patently incorrect at worst. As a part of the NBP, we encourage the Commission to work with Congress to adopt measures that stop this practice and guarantee that funds collected from consumers at the state and local level for E911 fees are spent for their intended purpose – supporting 911 services.

As we work to ensure that all Americans have access to state-of-the-art communications capabilities, we must be mindful that tax policies should promote, rather than impair, our ability to deliver that access. Governments at all levels should be encouraged to review their current tax structures and develop plans to achieve the reforms necessary to ensure policies that encourage, not discourage, broadband deployment and adoption. Doing so will help accelerate the deployment of broadband infrastructure and encourage greater adoption of these services, so that all Americans may enjoy the economic and social benefits that enhanced broadband capability offers.

Thank you for your attention to these matters and for your leadership in crafting the NBP.

Sincerely,

A handwritten signature in black ink that reads "Steve Largent". The signature is written in a cursive, flowing style.

Steve Largent

Cc: Commissioner Michael J. Copps  
Commissioner Robert M. McDowell  
Commissioner Mignon Clyburn  
Commissioner Meredith Attwell Baker